

PROPOSED SUBSTITUTE HB 2488

By Rep. Zeiger

1 AN ACT Relating to creating an academic bill of rights;

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3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

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5 NEW SECTION. **Sec. 1.** The legislature finds that free speech is  
6 one of the most important values protected by the federal and state  
7 Constitutions. The legislature also finds that free expression on  
8 the campuses of Washington's public colleges and universities is  
9 particularly important for fostering a true marketplace of ideas,  
10 where students can be exposed to a variety of ideas and learn  
11 tolerance for those ideas with which they disagree. The history of  
12 university life has been to introduce students to ideas, concepts,  
13 and values they may object to or even be offended by. The  
14 legislature finds that speech on Washington's campuses has been  
15 chilled by increasing regulations that are not viewpoint neutral. It  
16 is the intent of the legislature to afford campus speech the highest  
17 level of judicial protection.

1        NEW SECTION. Sec. 2. A new section is added to chapter 28B.10 RCW  
2 to read as follows:

3        (1) This section may be known and cited as the campus free expression  
4 act.

5        (2) (a) The outdoor area of a campus of an institution of higher  
6 education must be considered a traditional public forum.

7        (b) The governing board of the institution of higher education  
8 may impose content-neutral and viewpoint-neutral time, place, and  
9 manner restrictions on the use of the outdoor area of the campus for  
10 expressive activities that are necessary to serve a compelling state  
11 interest and narrowly drawn to achieve that interest. These  
12 restrictions must allow members of the institution community to  
13 spontaneously and contemporaneously assemble. In addition, the  
14 restrictions must be well-defined and published, at a minimum, on  
15 the web site of the institution and as part of any printed materials  
16 covering the rules and policies of the institution.

17        (3) A person who wishes to engage in noncommercial expressive  
18 activity on the campus of an institution of higher education must be  
19 permitted to do so freely, as long as the person's conduct is not  
20 unlawful and does not materially and substantially disrupt the  
21 orderly operation of the institution.

22        (4) Nothing in this section may be construed as narrowing a  
23 student's rights of expression under the First Amendment to the  
24 United States Constitution or Article I, section 5 of the Washington  
25 state Constitution.

26        (5) (a) The attorney general or a person whose rights under this  
27 section have been violated may bring an action in a court of  
28 competent jurisdiction against the institution of higher education,  
29 members of the institution's governing board, deans, chairs, or  
30 faculty or staff members.

31        (b) In an action brought under this section, if the court finds  
32 a violation of this section, the court shall take the following  
33 actions:

1 (i) For the first established violation, issue an injunction  
2 against continued violation of this section; and

3 (ii) For subsequent violations, award the aggrieved person: (A)  
4 Compensatory damages of no less than five hundred dollars for the  
5 initial violation, plus fifty dollars for each day the violation  
6 remains ongoing; (B) reasonable court costs; (C) attorneys' fees,  
7 including expert fees; and (D) any other relief in equity or law  
8 deemed appropriate.

9 (c) An action to enforce a right or obligation arising under  
10 this section must commence within one year after the cause of action  
11 accrues. A cause of action accrues when the section is violated.  
12 Each day that a violation of this section persists, and each day  
13 that a policy or rule in violation of the section remains in effect,  
14 is a new violation of the section, and therefore, another day that a  
15 cause of action accrues.

16 (6) As used in this section, "expression," "expressive  
17 activity," or "expressive activities" includes all forms of peaceful  
18 assembly, protest, speech, distributing literature, carrying signs,  
19 and circulating petitions. The term does not include fighting words,  
20 libelous statements, or obscene material, as defined by the United  
21 States supreme court.

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27 EFFECT: Removes the provisions on trigger warnings, microaggressions,  
28 whistleblower, and student disciplinary proceedings. Retains the  
provision on campus free expression.

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